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JAN 12 2006

In re Application of:  
Ming Xi et al.  
Serial No.: 09/678,266  
Filed: October 3, 2000  
For: METHOD AND APPARATUS FOR  
DEPOSITING REFRACTORY METAL  
LAYERS EMPLOYING SEQUENTIAL  
DEPOSITION TECHNIQUES TO FORM A  
NUCLEATION LAYER

DECISION ON PETITION  
TO WITHDRAW HOLDING  
OF ABANDONMENT

This is a decision on the petition filed February 10, 2003, to withdraw the holding of abandonment in the above-identified application under 37 CFR § 1.181. No petition fee is required.

The petition is **GRANTED**.

The application was held abandoned for failure to timely pay the issue fee in response to the Notice of Allowance and Fee(s) Due (hereinafter "Notice") mailed August 13, 2002. A Notice of Abandonment was mailed on January 20, 2003.

Petitioner asserts that the Notice mailed August 13, 2002, was not received until January 24, 2003. To support this assertion, petitioner asserts that the Notice of August 13, 2003 was returned undelivered because it was not mailed to the correspondence address of record at the time and was re-mailed in an envelope that was postmarked January 13, 2003, and received by petitioner on January 24, 2003. The Notice includes a date stamp "Received Sep - 4 2002 Technology Center 2800" and is also stamped "Matched and Return." The stamps are evidence that the Notice was returned undelivered by the US Postal Service. The Notice was then remailed without the statutory period for paying the fees being reset.

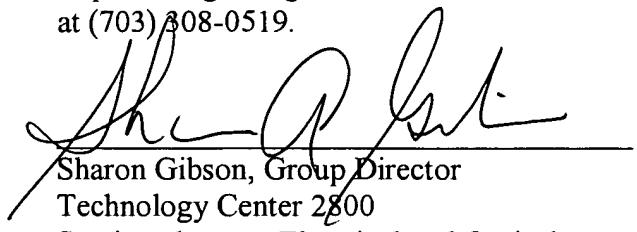
A review of the written record indicates that the Notice with the mailing date of August 13, 2002 was returned undelivered by the US Postal Service and was remailed. The Notice was not received by petitioner until the period for paying the issue fee has expired. There is no apparent reason why the address of record was not changed to the above-indicated address since the

change of address was submitted and processed prior to the mailing of the Notice. on filing. Since the Notice was received by petitioner after the time for paying the issue fee has expired, petitioner was not duly served notice that the issue fee was due and the application was not abandoned in fact.

For the above stated reasons, the petition is granted. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to the applicant is regretted.

The two Information Disclosure statements submitted after the filing of the instant petition will be considered and the examiner will take appropriate action consistent with this decision.

Inquiries regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (703) 308-0519.

  
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